

**DISTRICT COURT OF THE UNITED STATES
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18-cv-00046-FDW**

JOHNNIE D. ALLEN,)
)
Plaintiff,)
)
vs.)
)
FNU POOLE, et al.,)
)
Defendants.)
)

ORDER

THIS MATTER is before the Court on the Plaintiff's "Notice of Voluntary Dismissal" [Doc. 19], in which the Plaintiff moved for voluntary dismissal of this action. The Court construes Plaintiff's filing as a motion for voluntary dismissal under Rule 41 of the Federal Rules of Civil Procedure.

Under Rule 41, Plaintiff could have filed a notice of dismissal without a court order. See FED. R. CIV. P. 41(a)(1)(A)(i) (stating that the plaintiff may take a voluntary dismissal without a court order "before the opposing party serves either an answer or a motion for summary judgment"). Because an Answer has been filed in this matter, the Court grants Plaintiff's motion for voluntary dismissal under Fed.R.Civ.P.41(a)(1)(A)(i).

IT IS THEREFORE ORDERED that:

1. Plaintiff's Notice of Voluntary Dismissal [Doc. 19] is **GRANTED**, and this action is dismissed without prejudice.
2. The Clerk is instructed to terminate this action.

IT IS SO ORDERED.

Signed: May 8, 2019


Frank D. Whitney
Chief United States District Judge

